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UNIREGISTRY, INC and SEVAN DERDERIAN

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NATALIE LAMBERT,
Plaintiff,

v.

UNIREGISTRY, INC, a Delaware
corporation; SEVAN DERDERIAN,
Defendants.

Case No. 8:18-cv-01566

**NOTICE OF REMOVAL OF
CIVIL ACTION TO FEDERAL
COURT UNDER U.S.C. §§ 1332,
1441(B), AND 1445 (DIVERSITY)**

(Orange County Superior Court, Case
No. 30-2018-01007644-CU-OE-CJC)

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA AND TO PLAINTIFF AND
HER ATTORNEY OF RECORD:

PLEASE TAKE NOTICE THAT Defendants Uniregistry and Sevan Derderian
("Derderian") (collectively "Defendants") hereby remove Orange County Superior
Court Case No. 30-2018-01007644-CU-OE-CJC to this Court. This removal is based
on diversity jurisdiction pursuant to 28 U.S.C. sections 1332 and 1441(b) and is
supported by the exhibits attached hereto along with the accompanying Declaration
of Allegra A. Jones.

1 **I. PROCEDURAL HISTORY AND VENUE**

2 1. On July 24, 2018, Plaintiff Natalie Lambert filed a complaint relating to
3 her employment in the Orange County Superior Court against Uniregistry, Inc. and
4 Seven Derderian. (*See* Exhibit 1 hereto.)

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6 2. Plaintiff served the Complaint on Uniregistry on August 3, 2018 and on
7 Derderian on August 4, 2018. The Complaint, along with all other process,
8 pleadings, and orders served on Uniregistry and Derderian are attached hereto:
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Exhibit Number	Document
Exhibit 1	Summons
Exhibit 2	Complaint
Exhibit 3	Civil Case Cover Sheet

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17 3. On August 31, 2018 at 10:52 a.m., Defendants Uniregistry and
18 Derderian filed their Answer to the Complaint in this action in Orange County
19 Superior Court, and served a copy of their Answer on Plaintiff. (Declaration of
20 Allegra A. Jones [“Jones Decl.”] ¶ 3).

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22 4. The Orange County Superior Court is located within the Central District
23 of California. *See* 28 U.S.C. § 84(c). Thus, venue is proper in the Central District of
24 California. *See* 28 U.S.C. § 1441(a).
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II. GROUND FOR REMOVAL

5. Removal of this action is justified based on diversity jurisdiction under 28 U.S.C. sections 1332 and 1441(b) because the Complaint is a civil action between citizens of different states where the amount in controversy exceeds \$75,000.

A. **There is Diversity of Citizenship.**

1. To establish citizenship for diversity purposes, a natural person must be a citizen of the United States and be domiciled in a particular state. *Kantor v. Wellesley Galleries, Ltd.*, 704 F.2d 1088, 1090 (9th Cir. 1983). The Complaint states that Plaintiff is a resident of Florida and that Defendant Seven Derderian is a resident of California (Compl. ¶¶ 2, 4; *see also* Compl. ¶ 21). Because residence is prima facie evidence of domicile, Plaintiff is a resident of Florida and Derderian is a resident of California. *See State Farm Mut. Auto. Ins. Co. v. Dyer*, 19 F. 3d 514, 519-20.

2. A “corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business.” 28 USC § 1332(c)(1). Defendant was at the time of the filing of this action, and still is, a corporation registered under the laws of the Delaware, with its principal place of business in California, not Florida. (Compl. ¶ 3; Jones Decl. ¶¶ 5-6 and Exhibit 1 thereto).

3. The citizenships of any fictitious doe defendants are disregarded for purposes of establishing removal jurisdiction under 28 USC section 1332. *See* 28 USC § 1441(a).

1 4. Accordingly, complete diversity of citizenship exists between Plaintiff
2 and Defendants Uniregistry and Sevan Derderian.

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4 **B. The Amount in Controversy Exceeds \$75,000.**

5 6. In assessing the amount in controversy for diversity jurisdiction
6 purposes, a court must assume that a jury will return a verdict for the plaintiff on all
7 claims made in the complaint. *Roth v. Comerica Bank*, 799 F. Supp. 2d 1107, 1117
8 (C.D. Cal. 2010). The amount in controversy may include general and special
9 compensatory damages, as well as any possible award of attorney’s fees where the
10 statutes under which the plaintiff sues authorize an award of attorneys’ fees. *See Galt*
11 *G/S v. JSS Scandinavia*, 142 F.3d 1150 (1998); *Lowdermilk v. US. Bank Nat’l Ass’n*,
12 479 F.3d 994, 1000 (9th Cir. 2007). Where authorized, punitive damages are also
13 counted toward this requirement. *See Romo v. FFG Insurance Co.*, 397 F.Supp.2d
14 1237, 1240 (C.D. Cal. 2005); *Davenport v. Mut. Ben. Health & Acc. Ass’n*, 325 F.2d
15 785, 787 (9th Cir. 1963). The ultimate inquiry is what amount is put in controversy
16 by the plaintiff’s complaint.

17 7. “When the plaintiff does not dispute the amount in controversy, ‘[a]
18 defendant’s notice of removal need include only a plausible allegation that the amount
19 in controversy exceeds the jurisdictional threshold.’” *Adkins v. J.B. Hunt Transp.*,
20 *Inc.*, 293 F. Supp. 3d 1140, 1143–44 (E.D. Cal. 2018) (citing *Dart Cherokee Basin*
21 *Operating Co., LLC v. Owens*, 135 S. Ct. 547 [2014]). However, if the plaintiff
22 contests the amount in controversy requirement, then “evidence establishing the
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1 amount is required” and “both sides submit proof and the court decides, by a
2 preponderance of the evidence, whether the amount-in-controversy requirement has
3 been satisfied.” *Id.* “The parties may submit evidence outside the complaint,
4 including affidavits or declarations, or other ‘summary-judgment-type evidence
5 relevant to the amount in controversy at the time of removal.’” *Id.* (citations
6 omitted).

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9 8. Plaintiff’s Complaint does not specifically identify the amount of
10 damages sought. When a state court complaint fails to establish a sufficiently
11 specific total amount in controversy, a removing defendant must only establish the
12 requisite jurisdictional amount by a preponderance of the evidence. *Guglielmino v.*
13 *McKee Foods Corp.*, 506 F.3d 696, 701 (9th Cir. 2007).

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16 9. Here, the Complaint alleges two causes of action: Sexual Discrimination
17 and Retaliation, both in violation of the California Fair Employment and Housing Act
18 (FEHA). “Plaintiff seeks compensatory damages, including economic damages for
19 past and future loss of earnings and benefits, general damages for emotional distress,
20 punitive damages, and statutory attorneys’ fees.” (Compl. ¶ 1). Plaintiff also seeks
21 “punitive and exemplary damages in sums sufficient to punish [Defendants] and set
22 an example in view of their respective financial conditions.” (Compl. ¶¶ 26, 32).
23 Moreover, Plaintiff specifies her economic damages to include past and future lost
24 wages and benefits, as well as “moving expenses, and additional consequential
25 damages, according to proof”. (Compl. ¶¶ 21, 30). Plaintiff bases her emotional
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1 damages request on allegations that she “experienced severe depression, anxiety,
2 insomnia and severe mental and emotional distress as a result of her termination” of
3 employment. (Compl. ¶ 21). Plaintiff repeatedly requests statutory attorney’s fees.
4 (Compl. ¶¶ 1, 27, 32, Prayer for Relief, p. 11).
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6 10. Plaintiff alleges in the Complaint that while working for Defendant
7 Uniregistry she was offered a base salary of \$80,000 plus commissions. (Compl.
8 ¶ 8). The Complaint alleges that her date of separation from Uniregistry was March
9 23, 2015. (Compl. ¶ 20). She alleges that she was unable to find employment in
10 Southern California and moved out of state in August of 2015. (Compl. ¶ 21).
11 Plaintiff does not specify when she found new employment, but that it was following
12 a “lengthy job search” and that she now earns “less income than she had made” with
13 Uniregistry. (Compl. ¶ 21).
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17 11. Based on her \$80,000 salary, a period of unemployment of one year
18 would result in a claim of \$80,000 in back pay – enough to satisfy the \$75,000
19 amount in controversy threshold. Plaintiff’s alleged period of unemployment from
20 March 23, 2015 through approximately August 23, 2015 alone, yields a five-month
21 period of unemployment resulting in a claim of more than \$33,000 for back pay,
22 exclusive of her claim for moving expenses, front pay, emotional distress, punitive
23 damages, attorneys’ fees, or any other damages. A “lengthy job search” of six and a
24 half months following her move, would result in an additional loss of over \$43,000,
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1 which results in a back pay claim of over \$76,000 – exceeding the amount in
2 controversy threshold and not including her claims for other types of damages.
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4 12. As described above, Plaintiff also seeks an unspecified amount of
5 damages for exemplary and punitive damages and emotional distress. Emotional
6 distress damages in a successful employment discrimination case may be substantial.
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8 *Thompson v. Big Lots Stores, Inc.*, No. 116CV01464LJOJLT, 2017 WL 590261, at
9 *4 (E.D. Cal. Feb. 13, 2017) (stating that damage awards for emotional distress in
10 analogous cases are often substantial, and describing discrimination cases in which
11 plaintiffs were awarded \$122,000 in one case and \$65,000 in another case for
12 emotional distress damages); *Simmons v. PCR Tech.*, 209 F. Supp. 2d 1029, 1034
13 (N.D. Cal. 2002) (discussing an employment discrimination case with a \$3,500,000
14 award for pain and suffering). For example, in *Kroske v. U.S. Bank Corp.*, the Ninth
15 Circuit held that the district court did not err in finding that the amount in controversy
16 was met where the plaintiff's alleged lost wages amounted to about \$55,000, finding
17 that her emotional distress damages, for purposes of removal, would add at least an
18 additional \$25,000 to her claim. 432 F. 3d 976, 980 (9th Cir. 2005). Adding the
19 emotional distress damages to the alleged wages owed, Plaintiff's claim, for purposes
20 of removal, exceeds \$100,000 before attorney's fees and punitive damages.
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25 13. For punitive damages, this district held that a conservative estimate of
26 punitive damages is a 1:1 ratio with compensatory damages, although there is no set
27 rule on how to calculate a potential award of punitive damages in connection with the
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1 amount in controversy analysis at the time of removal. *Garfias v. Team Indus.*
2 *Servs., Inc.*, 2017 WL 4512444, at *5 (C.D. Cal. Oct. 10, 2017) (citing *State Farm*
3 *Mut. Auto Ins. Co. v. Campbell*, 538 U.S. 408, 424–426 (2003) and *Roby v.*
4 *McKesson Corp.*, 47 Cal. 4th 686, 718 [2009]). The 1:1 ratio has been described as
5 “conservative” for purposes of assessing the amount in controversy requirement. *Id.*
6 (citing *Guglielmino*, 506 F.3d at 698; *Zapata Fonseca v. Vigo Importing Co.*, 2016
7 WL 6249006, at *2 (N.D. Cal. Oct. 26, 2016) and *Bayol v. Zipcar, Inc.*, 2015 WL
8 4931756, at *9 [N.D. Cal. Aug. 18, 2015]). Plaintiff’s damage claim is effectively
9 doubled by virtue of the request for punitive damages for purposes of this removal.
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13 14. Assuming for purposes of determining the amount in controversy that
14 Plaintiff were to recover on even some of her claims, an award of attorney’s fees
15 could be included. Both of Plaintiff’s claims are under the FEHA, which allows for
16 the recovery of statutory attorney’s fees in addition to the damages awarded on the
17 underlying claims. *See* Gov’t Code § 12965(b). In addition, under some
18 circumstances a lodestar multiplier is available. *See Lota by Lota v. Home Depot*
19 *U.S.A., Inc.*, 2013 WL 6870006, at *3 (N.D. Cal. Dec. 31, 2013); *Real v. Cont’l Grp.,*
20 *Inc.*, 653 F. Supp. 736, 739, 741 (N.D. Cal. 1987); *Sako v. Wells Fargo Bank. N.A.*,
21 2016 WL 2745346, at *2–3 (S.D. Cal. May 11, 2016).
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25 15. Furthermore, this district has held that in a similar, standard employment
26 action involving retaliation claims based on terminations, with damages pled for lost
27 wages and emotional distress, an estimate of the attorney’s fees at the time of
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1 removal may exceed \$30,000. *Garfias v. Team Indus. Servs., Inc.*, 2017 WL
2 4512444, at *7 (C.D. Cal. Oct. 10, 2017).

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4 16. Altogether, based on the allegations set forth in the Complaint, taken at
5 face value, the amount in controversy regarding conservative estimates for economic
6 damages, emotional distress damages, punitive damages and attorney's fees exceeds
7 the jurisdictional threshold. The amount has been met for purposes of removal.
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9 **D. This Notice of Removal Is Timely.**

10 17. This notice of removal is timely as it is filed within the thirty days of
11 both Uniregistry and Derderian first receiving the Complaint. 28 U.S.C. § 1446(b)
12 (requiring removal within thirty days of a defendant's receipt of a "pleading, motion,
13 order or other paper from which it may first be ascertained that the case is one which
14 is or has become removable").
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17 18. Counsel for Uniregistry certifies that in accordance with 28 U.S.C. §
18 1446(d), copies of this Notice of Removal will be served on Plaintiff's counsel and
19 filed with the clerk of the Orange County Superior Court. (Jones Decl. ¶¶ 7-8).
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21 **D. All Removal Requirements Have Been Met.**

22 19. No previous application has been made for the relief requested herein.
23 (Jones Decl., ¶ 9).
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25 20. The prerequisites for removal under 28 USC § 1441 have been met.

26 21. The allegations of this notice are true and correct and within the
27 jurisdiction of the United States District Court for the Central District of California.
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